

MONTANA LEGISLATIVE HISTORY

Chapter 56 1995

Bill H _____ S 106

Original bill & history ☒ C

H. Committee on Ag.

Hearing Date(s) 1/31 _____ C

_____ C

_____ C

_____ C

Date Out 2/03 _____ C

S. Committee on Agriculture

Hearing Date(s) 1/16 _____ C

_____ C

_____ C

_____ C

out 1/20

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

	RETURNED TO SENATE WITH AMENDMENTS		
3/11	2ND READING AMENDMENTS CONCURRED	39	0
3/13	3RD READING AMENDMENTS CONCURRED	46	3
3/15	SIGNED BY PRESIDENT		
3/15	SIGNED BY SPEAKER		
3/16	TRANSMITTED TO GOVERNOR		
3/21	VETOED		
4/11	VETO OVERRIDE MOTION FAILED	32	18
4/12	VETO OVERRIDDEN	36	13
	TRANSMITTED TO HOUSE		
4/12	VETO OVERRIDE MOTION FAILED	59	38
4/13	VETO OVERRIDE MOTION FAILED	61	38
	BILL FAILED TO RECEIVE REQUIRED 2/3 VOTE OF EACH HOUSE NECESSARY TO OVERRIDE VETO; GOVERNOR'S VETO SUSTAINED.		

SB 106 INTRODUCED BY JENKINS, ET AL.

REVISE TIME AND NOTICE REQUIREMENTS APPLICABLE TO
AGRICULTURAL LIENS FOR CROP DUSTING OR SPRAYING GRAINS OR
CROPS

1/12	INTRODUCED		
1/12	FIRST READING		
1/12	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
1/16	HEARING		
1/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/23	2ND READING PASSED	48	1
1/24	3RD READING PASSED	47	2
	TRANSMITTED TO HOUSE		
1/25	FIRST READING		
1/25	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
1/31	HEARING		
2/03	COMMITTEE REPORT—BILL CONCURRED		
2/04	2ND READING CONCURRED	96	2
2/06	3RD READING CONCURRED	97	2
	RETURNED TO SENATE		
2/08	SIGNED BY PRESIDENT		
2/08	SIGNED BY SPEAKER		
2/09	TRANSMITTED TO GOVERNOR		
2/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 56		
	EFFECTIVE DATE: 02/10/95		

SB 107 INTRODUCED BY HALLIGAN

PHASE IN ANY INCREASE IN VALUE OF CLASS FOUR PROPERTY
RESULTING FROM A REVALUATION CYCLE

1/12	INTRODUCED
1/12	REFERRED TO TAXATION
1/12	FIRST READING
1/13	FISCAL NOTE REQUESTED
1/19	FISCAL NOTE RECEIVED
1/20	FISCAL NOTE PRINTED
1/24	HEARING
3/03	TABLED IN COMMITTEE
3/29	MISSED TRANSMITTAL DEADLINE FOR 71ST DAY
	DIED IN COMMITTEE

SENATE BILL NO. 106

INTRODUCED BY

James M. Hansen

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TIME AND NOTICE REQUIREMENTS APPLICABLE TO AGRICULTURAL LIENS FOR CROP DUSTING OR SPRAYING GRAINS OR CROPS; AMENDING SECTION 71-3-902, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-902, MCA, is amended to read:

"71-3-902. How lien obtained. (1) Any person, firm, corporation, or partnership ~~who~~ that is entitled to a lien under this part shall, within ~~60~~ 90 days after the ~~last~~ first payment is due for labor or service ~~was~~ performed or material furnished in crop dusting or spraying grains or crops, file in the office of the secretary of state a statement of agricultural lien as provided in 71-3-125.

(2) A person, firm, corporation, or partnership that is entitled to a lien under this part and that intends to file a lien shall give 30 days' notice, by certified mail, of intent to file to the person, firm, corporation, or partnership for which labor or service was performed or materials furnished."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

-END-

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By CHAIRMAN SWYSGOOD, on January 16, 1995, at
1:03 p.m.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Gerry Devlin, Vice Chairman (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. Don Hargrove (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)

Members Excused: Sen. Bob Pipinich (D)

Members Absent: none

Staff Present: Doug Sternberg, Legislative Council
Jennifer Gaasch, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 92, SB 106, and SB 108
Executive Action: SB 108

{Tape: 1; Side: A}

HEARING ON SB 108

Opening Statement by Sponsor:

SENATOR RIC HOLDEN, SD 1, from Glendive, explained that SB 108 was dealing with leaf-cutting bees which pollinate alfalfa. There are a lot of regulations and the people in the industry need less. The laws were asked to be enforced by the industry and now they no longer need them and are asking that they be removed.

HEARING ON SB 106

Opening Statement by Sponsor:

SENATOR LOREN JENKINS, SD 45, from Sandy, stated that the original time period that the bill was giving a crop duster to file a lien was not enough time and this bill was extending the number of days to 90. Also a 30 day registered notice was to be given to the customer. This changed the original bill also by having 90 days to file a lien after the first bill was due. SEN. JENKINS reserved the right to close. The intent is to give both parties enough notice on what the situation is.

Proponent's Testimony:

None

Opponents' Testimony:

John Cadby, Montana Bankers Association, stated that this is a well intentioned bill, but the way it was written the bill has some problems that can possibly be worked out. The 90 days that the crop duster has to file a lien from the first billing date is not a very good amount of time. This is because it could cause the payment to be due late in the fall if the crop duster and farmer had an agreement to pay the bill after the farmer had sold the crop in the fall. If the bill was presented in the fall the crop duster would be giving the farmer 90 days after he has sold his crops and it would take even longer for the crop duster to receive his payment. Mr. Cadby stated that maybe there could be a compromise on the days when the lien is due. Perhaps it could be due so many days after the crop was sprayed and not when payment is due. Also add on the 30 day notice to notify the other lien holders.

Bob Stephens representing the Montana Graingrowers Association, stated that to begin with they were in support of the bill. In light of the testimony given by Mr. Cadby they have to be careful not to pass laws that affect lending to the farmer. They can support the bill if the issues that Mr. Cadby spoke about above can be straightened out.

Questions From Committee Members and Responses:

SEN. BECK asked SEN. JENKINS about why the bill is being introduced. SEN. JENKINS replied that some farmers had tried to get a Commodity Credit Corporation (CCC) loan and found out that a lien had been filed on their crops. This has not been abused by the industry. But there was one company that had been filing liens on them.

SEN. BECK asked SEN. JENKINS why the lien was not addressed when their payment was due or when they sold their grain. SEN. JENKINS replied that the reason was because the farmers had not yet sold the crop and it was in late August.

SEN. JERGESON asked SEN. JENKINS if the farmers had forgot that their crops were sprayed. SEN. JENKINS replied that no they did not and this was part of the reason for the lien to be filed after the first payment was due. The intent was that after they sold their crops they could pay the bills. The point was to give the notification that a lien would be filed and there was 30 days to pay the bill, giving the farmer adequate notice.

SEN. BECK asked SEN. JENKINS if the payment was due after the crop was sold, what would the reason be for having filed the lien? SEN. JENKINS replied that under existing law they only had 60 days before the right to file a lien was lost and extending it to 90 days gives the crop duster a longer time period. SEN. BECK asked if they had an agreement to pay until after the crops were sold so they could pay for it, would it be logical to put a lien against them? SEN. JENKINS replied that they can do that and the 30 day registered noticed can be given to the customer.

SEN. HOLDEN asked Mr. Cadby if he and SEN. JENKINS could work out the details. Mr. Cadby replied that they could.

Closing by Sponsor:

SEN. JENKINS replied that the questions covered the bill. The purpose is to notify the person getting the lien and giving the person filing the lien more time. This may prevent them from having to even file a lien.

EXECUTIVE ACTION ON SB 108

Motion: SEN. DEVLIN moved to ACCEPT the amendments as follows; to change the effective date to passage on approval and to change line 1 of page 3 by deleting the word "and".

Vote: The MOTION CARRIED unanimously by oral vote.

Motion: SEN. HOLDEN moved that SB 108 DO PASS AS AMENDED.

Vote: The MOTION CARRIED unanimously by oral vote.

Discussion:

CHAIRMAN SWYSGOOD stated that SB 92 would take executive action on January 25.

MONTANA SENATE
1995 LEGISLATURE
AGRICULTURE COMMITTEE

ROLL CALL

DATE _____

1-16-95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

DATE 1-16-95

SENATE COMMITTEE ON Agriculture, Livestock, and Irrigation

BILLS BEING HEARD TODAY: SB 92, SB 106, SB 108

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
John Sample	Assoc. of Aerial Applicators (crop dusters)	106	X	
Stuart Duggelt	MT Veterinary Medical Assoc.	92	X	
Jennifer Hill	Stockgrowers, Wood Growers	92	✓	
Joe Laionetto	Dept of Agriculture	108	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN JOE BARNETT**, on January 31, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Joe Barnett, Chairman (R)
Rep. John "Sam" Rose, Vice Chairman (Majority) (R)
Rep. Don Larson, Vice Chairman (Minority) (D)
Rep. Dick Green (R)
Rep. Harriet Hayne (R)
Rep. Rick Jore (R)
Rep. Gay Ann Masolo (R)
Rep. Judy Murdock (R)
Rep. Karl Ohs (R)
Rep. George Heavy Runner (D)
Rep. William M. "Bill" Ryan (D)
Rep. Dore Schwinden (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Kenneth Wennemar (D)

Members Excused: Rep. Jon Ellingson

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Patti Borneman, Substitute Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 106, SB 108, HB 278
Executive Action: SB 106 BE CONCURRED IN
SB 108 BE CONCURRED IN
HB 278 DO PASS
HB 235 DO PASS
HB 212 DO PASS AS AMENDED

HEARING ON SB 106

Tape 1 - Side A

Opening Statement by Sponsor:

SEN. LOREN JENKINS, SD 45, said that SB 106 had some amendments added since it was first introduced. Under section 1, the Senate changed the notification deadline from 60 to 90 days. He said 60 days was current law. He said section 2 was the "meat of the bill" and stipulates that if someone plans to file a lien for spraying or crop dusting they must notify the farmer by certified mail 30 days before they file the lien.

Proponents' Testimony:

Bob Stephens, Montana Graingrowers Association said he supported SB 106.

John Semple, Association of Montana Aerial Applicators, stated their support of this bill.

Larry Grown, Agricultural Preservation Association said they think it's a good bill and expressed support.

Bill Leary, Montana Bankers Association, said that as the bill passed the Senate they learned about the merits of the bill and expressed support.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SAM ROSE asked SEN. JENKINS why aerial seeding and fertilizing isn't included in the bill. SEN. JENKINS said that the bill only addresses the notification of farmers who have not paid for the services of an aerial applicator.

REP. ROSE said that during the last session they passed a bill addressing fertilizer spraying but the language was different. He wondered why it was left off the new bill.

SEN. JENKINS replied that he was only concerned with the section of the bill pertaining to the change from 60 to 90 days.

Closing by Sponsor:

SEN. JENKINS closed by saying that the bill is looked upon favorably by many and he hoped the Committee would pass it.

but a bee that helps in the pollination process of alfalfa and is more efficient than honey bees. He said these bees help to get a better seed for harvest.

Closing by Sponsor:

SEN. HOLDEN urged the Committee to give this bill a strong vote of approval.

CHAIRMAN BARNETT asked REP. KASTEN if she would carry this bill on the floor and she said she would. He closed the hearing on this bill and asked the Committee if they were comfortable taking executive action on SB 108.

EXECUTIVE ACTION ON SB 108

Motion: REP. HARRIETT HAYNE MOVED THAT SB 108 BE CONCURRED IN.

Discussion:

REP. SCHWINDEN asked what the need for the immediate effective date was and if the act was currently expiring.

REP. STORY said he guessed it might have something to do with the practice of moving the bees around. CHAIRMAN BARNETT agreed and said that the pollination period would be June and July. Making it effective upon approval would be more advantageous to the industry.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON SB 106

Motion: REP. JAY STOVALL MOVED THAT SB 106 BE CONCURRED IN.

Discussion:

REP. DON LARSON asked why aerial seeding and fertilizing are not covered under this bill and asked Connie Erickson, Legislative Council, to provide an explanation and she did. REP. LARSON thought it would make sense to be "all inclusive" and said "if you're going to file a notice that you're going to foreclose on 'em for crop dusting, why wouldn't you file a notice for fertilizing and seeding?"

REP. OHS responded that he discussed this with REP. KASTEN and said that all liens should be made the same and wondered if the procedure was standard for the different types of aerial applications. Ms. Erickson said that Title 71, chapter 3, covers many different types of liens and the section being amended with this bill is in part 9, which is entitled "Crop or grain liens for spraying or dusting," and said that's why it specified

spraying or dusting. She gave examples of the other kinds of liens provided for in the statute. She said the reason seeding and fertilizing were not included was that it was not appropriate for the statute that was being amended in this bill.

Vote: The motion carried unanimously.

CHAIRMAN BARNETT said that **REP. MARIAN HANSON** would be asked to carry the bill on the House floor.

EXECUTIVE ACTION ON HB 278

Motion/Vote: **REP. ROBERT STORY** MOVED THAT HB 278 DO PASS. The motion carried unanimously.

EXECUTIVE ACTION ON HB 235

Motion: **REP. DON LARSON** MOVED THAT HB 235 DO PASS.

Discussion: **REP. LILA TAYLOR** asked what it meant to eliminate the state's immunity from liability for actions of the Alfalfa Seed Committee, as stated in the title of the bill.

Ralph Peck, Department of Agriculture, explained that the law said that the committee was responsible for liability and it was the only state committee that they researched that could be held liable. He said when they prepared the bill they added the provision that if someone was asked to serve on a committee in state government "they should not be exposed to that liability; they should be treated equally with all other state committees when they are appointed or asked to serve our industry on the state's behalf."

REP. STORY asked **Mr. Peck** to respond to a question pertaining to page 3, line 10-13, the text that is struck out.

Tape 1 - Side B

REP. STORY asked **Mr. Peck** to explain the difference. He explained that the part of the bill that was struck has to do with the surcharge which has already met the \$2.5 million cap and has been removed. The portion that has been inserted has to do with administrative funding that was required when monies from the general fund were low. He said that the last audit found that this was not specifically provided for in the law and should be. He said, in essence, the second sentence says "you can use the proceeds to administer the law, but in doing so, you can't exceed 12% of the expenses."

REP. STORY asked if the 12% was comparable to what they're already using for administration. **Mr. Peck** said they are at 9.9% currently.

HOUSE OF REPRESENTATIVES

Agriculture

ROLL CALL

DATE 1/31/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Sam Rose Vice Chairman, Majority	✓		
Rep. Don Larson, Vice Chairman, Minority	✓		
Rep. Jon Ellingson			✓
Rep. Dick Green	✓		
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Rick Jore	✓		
Rep. Gay Ann Masolo	✓		
Rep. Judy Rice Murdock	✓		
Rep. Karl Ohs	✓		
Rep. Jay Stovall	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Robert Story	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Ken Wennemar	✓		
Rep. Joe Barnett, Chairman	✓		

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Agriculture

COMMITTEE

DATE 1/31/95

BILL NO. SB 106 SPONSOR(S)

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Terrie VanBuren Rt. 1 Box 214 Joliet, MT	Visitor		
Vince Thomas Box 962 Forsyth, MT 59327	HB 278 Rocky Co. Wood Dist.	✓	
Don Holland HD 7	Representative HD 7 HB 278		
Bill Lamy SB 106	MT. BANKERS ASSN SB 106	✓	
John Samples SB 106	Assoc of MT Aerial Applicators SB 106	✓	
Bob Stephens	MT. Ag. Pres. Assoc. SB 106	✓	
LARRY BROWN	Ag. Pres. Assoc. SB 106	X	
Pam Langley	Montana Ag Business ASSN	✓	
Maurice Cleary-Schwinden	WIFE	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

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CS-14